



State of Utah

Department of
Environmental Quality

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DIVISION OF AIR QUALITY
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DAQ-005-07

MEMORANDUM

TO: Air Quality Board

THROUGH: Richard W. Sprott, Executive Secretary

FROM: Mat Carlile, Environmental Planning Consultant

DATE: January 10, 2007

SUBJECT: Five-Year Reviews: R307-120, R307-130, R307-135, and R307-301.

Background

All state agencies are required by the Utah Administrative Rulemaking Act (Title 63, Chapter 46a) to review each of their rules at least every fifth year. Because the statute defines "agency" as the state board or other entity that is authorized by statute to make rules, the responsibility to complete the review falls to the Air Quality Board.

At the end of the review, the agency must file a notice with the Division of Administrative Rules indicating its intent to continue, amend, or repeal the rule. To continue the rule, the agency must address the requirements in 63-46a-9(3)(a) as listed on the attached forms¹. If the agency does not file the form on time, the rule automatically expires, as provided in 63-46a-9(8). Nothing in the review process makes any change in the rule text; if the agency wishes to amend or repeal the rule, a separate action is required under the regular rulemaking procedures (public notice, public comment, and final Board adoption).

¹ The five-year review must include all written comments received since the last review, and the interpretation of the Legislature's Administrative Rules Review Committee is that this includes all comments received during any amendment process, even though the Board has already considered all of those comments and responses. The program used by the Division of Administrative Rules to process agency submittals cannot accept any formatting characters; including tabs or hard returns; therefore, capitalizing titles and subjects is the only acceptable method to indicate separations.

The five-year reviews for the following four attached rules are due in either March or April of 2007. Also attached for your review are draft forms to be filed with the Division of Administrative Rules.

Rules

R307-120. General Requirements: Tax Exemption for Air Pollution Control Equipment

R307-120 sets forth conditions for eligibility for the tax exemption allowed in 19-2-124 through 19-2-127 and identifies the process to apply for certification of the exemption. It also identifies items for which exemptions are not allowed. In an earlier item in the packet, the Board is asked to adopt changes to R307-120.

R307-130. General Penalty Policy

R307-130 guides the executive secretary of the Air Quality Board in determining a reasonable and appropriate penalty for violations of the rules of the Air Quality Board based on the nature and extent of the violation, the economic benefit to the sources for noncompliance, and adjustments for specific circumstances.

R307-135. Enforcement Response Policy for Asbestos Hazard Emergency Response Act

R307-135 sets forth the conditions for issuance of a notice of violation and the penalties to be assessed, as set forth in 15 U.S.C. 2601 et seq.

R307-301. Utah and Weber Counties: Oxygenated Gasoline Program as a Contingency Measure.

The oxygenated gasoline program is a contingency measure in case the carbon monoxide National Ambient Air Quality Standards (NAAQS) is violated in Provo or Ogden; if the standard is violated, the oxygenated gasoline program would be reinstated based on the trigger measures in State Implementation Plan (SIP) Subparts IX.C.6.e or IX C.8.f. R307-301 specifies how the oxygenated gasoline program would be conducted and enforced if it is needed.

Staff Recommendation: Staff recommends that the Board approve the attached forms to be filed with the Division of Administrative Rules.